

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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INDIA GLOBALIZATION CAPITAL, INC.,	:	
	:	
Plaintiff,	:	
	:	21-CV-1131 (VEC)
-against-	:	
	:	
APOGEE FINANCIAL INVESTMENTS, INC.,	:	
	:	
Defendant.	:	
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APOGEE FINANCIAL INVESTMENTS, INC.,	:	
JOHN R. CLARKE,	:	
Plaintiffs,	:	
	:	
-against-	:	21-CV-3809 (VEC)
	:	
RAMACHANDRA MAKUNDA, INDIA	:	
GLOBALIZATION CAPITAL, INC.,	:	
	:	
Defendants.	:	
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**ORDER**

VALERIE CAPRONI, United States District Judge:

WHEREAS on April 30, 2021, the Court consolidated these two matters pursuant to Rule 42(a)(2) of the Federal Rules of Civil Procedure, Dkt. 16;

WHEREAS on May 21, 2021, India Globalization Capital, Inc. and Ramachandra Mukunda filed a consolidated partial motion to dismiss Apogee Financial Investment, Inc.’s (“Apogee”) counterclaim and Apogee and John R. Clarke’s complaint, Dkt. 25;

WHEREAS pursuant to Rule 4(E) of the undersigned’s Individual Practices in Civil Cases and Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure, the non-moving party may

amend its pleading instead of responding in opposition to the motion and if the non-moving party elects to do so, the previously filed motion to dismiss will be denied as moot; and


WHEREAS in lieu of responding in opposition to the motion, Apogee and Clarke filed an amended complaint, which also served to amend their counterclaims, Dkt. 31;

IT IS HEREBY ORDERED that India Globalization Capital, Inc. and Mukunda's motion to dismiss is DENIED as moot.

The Clerk of Court is respectfully directed to close the open motion at docket entry 25.

**SO ORDERED.**

**Date: June 29, 2021**  
**New York, New York**

  
**VALERIE CAPRONI**  
**United States District Judge**